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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES BLEDSOE PICKRELL,

Defendant and Appellant.

C050245

(Super. Ct. No. 04F6249)

After his motion to suppress evidence (Pen. Code, § 1538.5) was denied, defendant James Bledsoe Pickrell pled guilty to one count of possession of methamphetamine for sale (Health & Saf. Code, § 11378) and admitted a prior drug conviction (Health & Saf. Code, § 11370.2, subd. (c)). Sentenced to state prison, defendant appeals, contending his motion to suppress should have been granted. We shall affirm.

FACTS¹

Around 7:20 a.m. on August 24, 2004, agents of the Shasta Interagency Narcotics Task Force (SINTF), assisted by agents

¹ The facts are taken from the search warrant affidavit, the preliminary hearing, and the hearing on the motion to suppress.

from the California Department of Justice and the California Highway Patrol, went to 2564 Abernathy Lane in Redding to locate Maximillian Cisneros, reportedly living at that address. Cisneros was on searchable probation, had an outstanding felony warrant for possession of narcotics for sale, and had failed to report for drug testing and a court appearance in the last month.

At 2564 Abernathy Lane the agents discovered a single-family residence with several sheds and trailers on the premises. After going to the main residence, they began knocking on the trailers' doors to locate and detain everyone on the property, intending both to find Cisneros and to secure the property for their own safety.

Three of the four trailers were occupied. The occupants of two emerged promptly on request. But at the third trailer, a 16-foot travel trailer, Agent Kent knocked and announced the police presence for over four minutes without a response.

After learning that a person named Jim was inside, Agent Rudd banged on the rear wall and said, "Jim, if you are in there, come on out." A woman, later identified as Robyn Hosley, emerged; asked if anyone else was inside, she said, "Jim." After Agent Rudd repeated his demand, a man, later identified as defendant, came out.

Agent Badgley (a Department of Justice agent, not a SINTF member) entered the trailer to make sure no one else was inside. During the five seconds he remained inside, he detected an "extremely strong smell of what I would categorize as a solvent." He left the front door open to ventilate the trailer.

Badgley asked Hosley for her name and identification. She gave her name, but said her identification was in the trailer. He asked if he could look for it; she said he could. He asked where he might find it; she said, "I think it's on the bed." She also said it was inside a purse.

The trailer was extremely small inside, disheveled, and crammed with a variety of items. Looking on the bed, Badgley saw blankets, pillows, and soiled clothes, but not Hosley's identification. He did not look through the items on the bed because he was not wearing gloves and the trailer's condition was "less than sanitary." Instead, he looked around the trailer in common areas "where I thought it was reasonable that somebody entering the trailer would place an I.D. or wallet."

Not seeing a wallet or purse in plain view, Badgley opened a cupboard above the stove. Inside he found glass pipes apparently used for smoking methamphetamine and a baggie containing a powdery substance. He stopped searching for Hosley's identification. Another officer later found her wallet under the bedcovers.

After accounting for everyone on the property, the agents asked about Cisneros's whereabouts. A woman found in the main residence said Cisneros did not live there anymore, but stayed there often and was there the night before. Her brother owned and lived in the house; she knew he was "up to no good" because strangers often came over and stayed in his room and she had several times recently detected "weird chemical smells" in the residence. Another woman who lived in the residence was acting

suspiciously; she was later found to be under the influence of a controlled substance.

Agent Rudd later learned that defendant and Hosley had extensive criminal records, including several prior drug convictions.

The agents got a search warrant for the main residence and defendant's trailer. Executing the warrant, they found two plastic bags containing 9.5 grams and 1 gram respectively of suspected methamphetamine, glass pipes, a scale, and drug packaging materials. The substance in both bags tested positive for methamphetamine.

The suppression motion

Defendant's motion to suppress sought the exclusion of "all observations . . . made by law enforcement in the trailer in which he was arrested, all physical evidence seized therein, [and] all fruits thereof, including statements made by defendant." Defendant argued: (1) The search warrant the officers obtained after the initial search was invalid because it was directly based on that invalid initial search. (2) The warrantless search of the cupboard in the trailer was beyond the scope of any consent given.

During argument on the motion, defendant added a third point: the initial search of the trailer was invalid because the probation search for Cisneros authorized the officers only to search the main residence, not the trailers, which were "separate households."

The trial court denied defendant's motion on the following grounds: (1) In carrying out the probation search, the officers

were authorized to search all structures at the address given, to order all their occupants to come out, and to enter all the structures as part of a protective sweep. (2) Agent Badgley's search for Hosley's identification did not exceed the scope of her consent.² (3) Even if the information about Badgley's discovery of a baggie with suspected methamphetamine in the trailer cupboard were excised from the search warrant affidavit, probable cause to issue the warrant still existed: an agent smelled an odor he associated with methamphetamine when he entered the trailer, defendant and Hosley as well as others on the property had drug-related convictions involving methamphetamine, and defendant's conviction was for possession of chemicals with intent to manufacture methamphetamine.

DISCUSSION

Reviewing the validity of a search or seizure, we uphold the trial court's factual findings if supported by substantial evidence. However, we determine the reasonableness of the search or seizure independently. (*People v. Camacho* (2000) 23 Cal.4th 824, 830 (*Camacho*).)

Defendant renews all the grounds for suppression he raised below. We conclude they all lack merit.

² The court noted that the search warrant affidavit suggested Hosley gave consent to search only the bed area. However, Badgley testified at the hearing on the motion that he asked if he could go in to find her identification and she agreed; he then asked where he should look, and she replied that she thought it was on the bed. Thus, the testimony showed that the scope of her consent was broader than appeared from the affidavit.

I

If reasonable fear for officer safety justifies a warrantless entry, the officers may lawfully do a protective sweep of the premises to search for persons and weapons. If they detect evidence of a crime or contraband in plain view during a protective sweep, they may lawfully seize that evidence. (*Maryland v. Buie* (1990) 494 U.S. 325, 327, 330 [108 L.Ed.2d 276, 281-283].)

Here, the officers were searching for Cisneros, a probationer with an outstanding felony warrant for drug sales, at an address that encompassed all the structures on the property. (Thus, *United States v. Pena* (D. Mass. 1996) 924 F.Supp. 1239, cited by defendant, which involved a warrantless search of a third-floor apartment in a building where the officers had a warrant only for a second-floor apartment (*id.* at pp. 1234-1244), is inapposite.) The officers had no evidence pointing specifically to one structure rather than another; for all they knew, Cisneros could have been living in, staying in, or visiting any of the structures. The officers also had no way of knowing in advance how many other people might be on the premises or whether any of them might also be involved in drug selling, an occupation whose practitioners are frequently armed. Thus it was reasonable for the officers to make all persons on the premises come out and identify themselves, both as part of the search for Cisneros and as a means of securing officer safety. (See *People v. Ledesma* (2003) 106 Cal.App.4th 857, 864-866.)

So far as defendant claims the officers could not properly go into his trailer as part of a protective sweep because he and Hosley had already come out, we disagree. The officers were not required to take anyone's word for it that those were the only occupants of defendant's trailer. The only way they could verify that neither Cisneros nor anyone else who might threaten their safety remained inside was by checking for themselves. Furthermore, unlike the occupants of the other structures, defendant and Hosley waited a long time to come out after the officers knocked and announced themselves, which could only have heightened their suspicions of possible danger from inside the trailer. (See *People v. Hannah* (1996) 51 Cal.App.4th 1335, 1345; *United States v. Burrows* (7th Cir. 1995) 48 F.3d 1011, 1017.)

We conclude Agent Badgley's initial entry into the trailer was lawful.

II

Valid consent to a warrantless search satisfies the Fourth Amendment's requirement of reasonableness. (*Schneckloth v. Bustamonte* (1973) 412 U.S. 218, 219 [36 L.Ed.2d 854, 858].) However, the search may not exceed the scope of the consent as a reasonable person would have understood it. (*Florida v. Jimeno* (1991) 500 U.S. 248, 251 [114 L.Ed.2d 297, 302]; *Walter v. United States* (1980) 447 U.S. 649, 656-657 [65 L.Ed.2d 410, 417-418].) Whether the search did or did not exceed that scope is a question of fact to be determined from the totality of the circumstances, and we defer to the trial court's determination

unless clearly erroneous. (*People v. Crenshaw* (1992) 9 Cal.App.4th 1403, 1408 (*Crenshaw*).)

Here, it is undisputed that Hosley consented to Agent Badgley's warrantless entry into defendant's trailer to search for her identification. Defendant asserts, however, that Badgley exceeded the scope of Hosley's consent by opening the cupboard door because she consented only to a search of the bed. We disagree. She did not so limit the scope of her consent.

Hosley said she *thought* her identification was on the bed, but she also said it was inside a purse. Badgley did not see a purse on the bed, and he had no reason to think it might be under the bedcovers because that is not a usual spot to put a purse. Given the crowded and chaotic state of the trailer's cramped interior, it was reasonable for him to search beyond the bed to try to find the purse.

Badgley testified that Hosley did not say he could look only at the bed or tell him there was any place inside the trailer where he could not look; she merely suggested places her identification might be. So far as Badgley's testimony suggested a broader scope of consent than the information in the search warrant affidavit, the trial court found that testimony credible, and we may not reweigh that finding. (*Camacho, supra*, 23 Cal.4th at p. 830; *Crenshaw, supra*, 9 Cal.App.4th at p. 1408.)

People v. Hamilton (1985) 168 Cal.App.3d 1058, cited by defendant, is inapposite. There, an apartment resident withdrew consent to search her bedroom by trying to close the bedroom door before the officers could go in. (*Id.* at p. 1068.) Here,

there is no evidence Hosley tried to withdraw, restrict, or limit her consent after giving it.

III

But even if we assume Badgley's search of the cupboard exceeded the scope of Hosley's consent and delete the information gained by that search from the warrant affidavit, we agree with the trial court that probable cause remained to issue the warrant. (See *People v. Weiss* (1999) 20 Cal.4th 1073, 1081-1083.) The chemical, solvent-like smell detected by Agent Badgley on opening the trailer door, the methamphetamine-related convictions of defendant and Hosley (as well as others associated with the premises), and their extreme delay in responding to the officers' knock-notice, all suggested there was a "fair probability that contraband or evidence of a crime [would] be found" in the trailer. (*Illinois v. Gates* (1983) 462 U.S. 213, 238 [76 L.Ed.2d 527, 548].)

Defendant asserts there is no evidence Agent Badgley (identified in the affidavit only as an agent with the Department of Justice) had the training or experience to identify the odor in the trailer as drug-related. However, the affidavit was executed not by Badgley but by Agent Rudd, a SINTF member and trained narcotics officer whose expertise is set out in the affidavit. The trial court found that the magistrate could reasonably have relied on Agent Rudd's sworn statements, regardless of whether Badgley's expertise had been shown. We agree.

Even absent the evidence obtained from the search of the trailer cupboard, probable cause to issue the warrant existed.

DISPOSITION

The judgment is affirmed.

SIMS, J.

We concur:

SCOTLAND, P.J.

NICHOLSON, J.